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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/805,538	03/14/2001	Hideo Ando	204567US2S	2693
22850	7590	03/29/2006		
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER PATEL, GAUTAM	
			ART UNIT 2627	PAPER NUMBER

DATE MAILED: 03/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/805,538	ANDO ET AL.	
	Examiner	Art Unit	
	Gautam R. Patel	2655	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9,13 and 14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9,13 and 14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 9, and 13-14 are pending for the examination. Claims 13-14 are newly added for examination.

RCE STATUS

2. The request filed on 5-18-04 for Request for Continued Examination (RCE) under 37 CFR 1.114 based on parent Application is acceptable and a RCE has been established. An action on the RCE follows.

Claim Objections

3. Claim 13-14 objected for following reasons.

Positive order light and negative order light are NOT defined in the specification at all. Specification only discloses SUB-BEAM A (+1st-Order light) and SUB-BEAM B (-1st Order light). Also specification does not define at all that these beams are related to Sub-beam A and B, or how they are related.

NOTE: For examination purposes it assumed that the Applicants are referring to Sub-beam A and Sub-beam B.

Corrections and/or explanations are required.

Claim Rejections - 35 U.S.C. § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 9 and 10-12 are rejected under 35 U.S.C. § 102(b) as being anticipated by Muramatsu et al., US. patent 5,675,564 (hereafter Muramatsu).

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As to claim 9, Muramatsu discloses the invention as claimed [see Figs. 3-5, especially 4] including a light sending system, a detection optical system and a detector, comprising:

a light sending system [fig. 4A, unit 14] configured to focus [fig. 4A, unit 2] light from a light source [fig. 4A, unit 4] onto a recording surface of an information medium; [fig. 4A, unit 1] wherein an optical aberration is given to said light [col. 10, line 31 to col. 11, line 16];

a detection optical system [fig. 4A, unit 14] configured to detect light from said information medium [col. 10, line 31 to col. 11, line 16]; and

a detector [fig. 4A, unit 8a, 8b and 8c] configured to detect a state of occurrence of the optical aberration of said light, focused on the recording surface of said information medium by said light sending system from a detection result obtained by said detection optical system [col. 10, line 31 to col. 11, line 16].

5. The aforementioned claim 13, recites the following elements, inter alia, disclosed in Muramatsu:

An optical element configured to generate a positive order light [Bc+] and a negative order light [Bc-] from the light from said light source, wherein the detector detects the state of occurrence of the optical aberration using the positive order and negative order light beams [col. 9, line 37 to col. 10, line 21].

Claim Rejections - 35 U.S.C. § 103

6. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of

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each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claim 14 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Muramatsu as applied to claims 9 and 13 above.

As to claim Muramatsu discloses all of the above elements including a means [fig. 1, unit 5] for separating the light beam B_0 into three beams including positive and negative beams [col. 10, lines 31-61]. Muramatsu does not specifically disclose well known fact that the grating could be a hologram element to the extent claimed.

However one of ordinary skill in the art at the time invention would have realized that as far as separating the light beam into three components is concerned the grating as disclosed by Muramatsu and hologram element as claimed by the Applicants are equivalent elements.

Therefore, it would have been obvious to provide the system of Muramatsu with a hologram element in place of a grating. The application or use of the a hologram element, as known and used by one of ordinary skill in the art, would have been obvious, because the hologram element performs the same function in the same way as the grating of Muramatsu's system, and is an equivalent element. One of ordinary skill in the art would have recognized that the hologram element as claimed was equivalent and an obvious alternative to grating of system of Muramatsu.

Other prior art cited

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. Fukakusa et al. (US. Patent 5,761,178) "Optical integrating element ..".
- b. Lee (US. patent 5,050,153) "Semiconductor laser ...".
- c. Sincerbox (US. patent 4,497,534) "Holographic optical head"
- d. Suzuki et al. (US. patent 4,932,731) "Holographic ...".

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Contact Information

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gautam R. Patel whose telephone number is (703) 308-7940. The examiner can normally be reached on Monday through Thursday from 7:30 to 6.

The appropriate fax number for the organization (Group 2650) where this application or proceeding is assigned is (703) 872-9314.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Doris To can be reached on (703) 305-4827.

Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 305-4700 or the group Customer Service section whose telephone number is (703) 306-0377.

Gautam R. Patel
Primary Examiner
Group Art Unit 2655

August 19, 2004



**GAUTAM R. PATEL
PRIMARY EXAMINER**